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Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Presentment Date: August 16, 2017  
Time: 12:00 p.m.

Objections Due: August 16, 2017  
Time: 11:00 a.m.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

**TRUSTEE'S APPLICATION FOR AN ORDER APPROVING  
THE RETENTION OF THE SCALETTA LAW FIRM, PLLC  
AS SPECIAL COUNSEL NUNC PRO TUNC AS OF AUGUST 1, 2017**

Irving H. Picard (“Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”), under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”),<sup>1</sup> and the chapter 7 estate of Bernard L. Madoff (together, the “Debtor”), by and through his undersigned counsel, for his Application

(the “Application”) for authority to retain The Scaletta Law Firm, PLLC (“The Scaletta Law Firm”) as special counsel as of August 1, 2017, respectfully represents as follows:

**Jurisdiction**

1. This Court has jurisdiction over this Application pursuant to SIPA section 78eee(b) and 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this SIPA liquidation case and this Application are proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are section 78eee(b)(3) of SIPA and sections 327(e), 328, 329 and 330 of the Bankruptcy Code and Fed. R. Bankr. P. 2014.

**Background**

3. On December 11, 2008 (the “Filing Date”),<sup>2</sup> the Securities and Exchange Commission (“SEC”) filed a complaint in the United States District Court for the Southern District of New York against defendants Bernard L. Madoff and BLMIS (together, the “Defendants”) (No. 08 CV 10791). The complaint alleged that the Defendants engaged in fraud through investment advisor activities of BLMIS.

4. On December 12, 2008, the Honorable Louis L. Stanton of the United States District Court for the Southern District of New York entered an order which appointed Lee S. Richards, Esq., as receiver (the “Receiver”).

5. On December 15, 2008, Judge Stanton entered an order pursuant to SIPA (the “Protective Decree”), which, in pertinent part:

- a) appointed the Trustee for the liquidation of the business of BLMIS pursuant to section 78eee(b)(3) of SIPA;

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<sup>1</sup> For convenience, future reference to SIPA will not include “15 U.S.C.”

<sup>2</sup> See section 78III(7)(B) of SIPA.

- b) appointed Baker & Hostetler LLP as counsel (“Counsel”) to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- c) removed the case to this Bankruptcy Court pursuant to section 78eee(b)(4) of SIPA.

6. Certain of the Trustee’s claims require knowledge of probate, trusts and estates law which to date have been handled by Baker Hostetler, LLP (“Baker Hostetler”) attorney Anthony J. Scaletta (“Scaletta”). Scaletta departed from Baker Hostetler on July 31, 2017 to open The Scaletta Law Firm. The Trustee deems it in the best interest of this SIPA liquidation proceeding to hire The Scaletta Law Firm to provide probate, trusts and estates legal advice to the Trustee.

**Relief Requested**

7. The Trustee has determined that it is necessary to engage legal counsel to assist the Trustee with potential litigation in various Probate Divisions of the Florida Circuit Courts and to provide legal advice pertaining to probate, trusts and estates issues that may arise in any adversary proceeding commenced by the Trustee in this proceeding. Such legal counsel will enable the Trustee to carry out his duties in this SIPA liquidation proceeding. The Trustee, therefore, proposes to retain and employ The Scaletta Law Firm as his special counsel with regard to any adversary proceeding that requires probate, trusts or estates legal advice effective *nunc pro tunc* as of August 1, 2017.

8. The Trustee seeks to retain The Scaletta Law Firm as special counsel because of Scaletta’s knowledge and expertise in the probate, trusts, and estates laws of the State of Florida and, generally, Scaletta’s experience practicing before the Probate Divisions of the Florida Circuit Courts.

9. The services of The Scaletta Law Firm are necessary and essential to enable the Trustee to execute faithfully his duties herein.

10. The Scaletta Law Firm has indicated a willingness to act on the Trustee's behalf to render the foregoing professional services.

11. The Trustee also expects to achieve efficiencies in retaining The Scaletta Law Firm because of Scaletta's prior knowledge and experience concerning the SIPA liquidation proceeding and various adversary proceedings commenced by the Trustee.

12. The Trustee submits that The Scaletta Law Firm's provision of professional services to the Trustee is permissible under section 78eee(b)(3) of SIPA and is in the best interest of the Debtor's estate and customers and creditors.

13. To the best of the Trustee's knowledge, and as disclosed in the declaration of disinterestedness of Scaletta, executed on August 8, 2017 and annexed hereto as Exhibit A, Scaletta and The Scaletta Law Firm are disinterested pursuant to section 78eee(b)(3) of SIPA and do not hold or represent any interest adverse to the Debtor's estate in respect of the matters for which The Scaletta Law Firm is to be retained.

14. The Scaletta Law Firm will be compensated at agreed upon rates, listed below, which reflect a reduction of its normal rates by ten percent (10%). Applications for compensation to The Scaletta Law Firm will be filed with this Court pursuant to applicable statutes and rules and application orders of this Court. The Scaletta Law Firm's rate information is as follows:

<b>Attorney</b>	<b>Standard Rates</b>	<b>Discounted Rates</b>
Anthony J. Scaletta	\$395.00	\$355.50

15. SIPC has no objection to this Application and, pursuant to SIPA section 78eee(b)(3), SIPC specifies that the Trustee should be authorized to retain The Scaletta Law Firm as special counsel for the purposes identified herein.

**Notice**

16. Notice of this Application will be provided by U.S. Mail, postage prepaid or email to (i) all parties included in the Master Service List as defined in the Order Establishing Notice Procedures (ECF No. 4560); (ii) all parties that have filed a notice of appearance in this case; (iii) the SEC; (iv) the IRS; (v) the United States Attorney for the Southern District of New York; and (vi) SIPC, pursuant to the Order Establishing Notice Procedures (ECF No. 4560) (collectively, the “Notice Parties”). The Trustee submits that no other or further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order substantially in the form of Exhibit B hereto, (a) granting this Application; (b) authorizing the Trustee to employ The Scaletta Law Firm, PLLC as special counsel for the purposes described herein as of August 1, 2017; and (c) granting the Trustee such other and further relief as is just and proper.

Dated: New York, New York  
August 8, 2017

Respectfully submitted,

/s/ Nicholas J. Cremona

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